

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

SIX DIMENSIONS, INC.,

Plaintiff,

V.

**PERFICIENT, INC. and
LYNN M. BRADING,**

Defendants.

Case No. 4:17-CV-02680

**DEFENDANT LYNN BRADING’S MOTION FOR STAY OF EXECUTION
OF JUDGMENT PENDING RESOLUTION OF POST-TRIAL ISSUES**

Defendant Lynn Brading files this Motion for Stay of Execution of Judgment pursuant to Fed. R. Civ. P. 62. Brading seeks an extension of the automatic stay provided by Rule 62 until the Court rules on the pending post-trial issues, including the parties' respective bills of costs, Plaintiff's Motion for Attorneys' Fees, Reasonable Costs, and Pre-Judgment Interest, and Plaintiff's Motion for New Trial.

I. INTRODUCTION

Following the Court’s entry of Judgment (Dkt. No. 225) on June 14, 2019, the parties have submitted opposed Bills of Costs (Dkt. Nos. 229, 232, 235), and Plaintiff has filed a Motion for Attorneys’ Fees, Reasonable Costs, and Pre-Judgment Interest (Dkt. No. 231), and a Motion for New Trial (Dkt. No. 239). Because resolution of these pending post-trial motions could impact the amount of the supersedeas bond required of Brading on appeal, Brading requests that the Court extend the automatic stay of

execution of judgment provided by Rule 62 until the Court rules on these pending post-trial issues.

II. ARGUMENT

Pursuant to Fed. R. Civ. P. 62(a), “execution on a judgment and proceedings to enforce it are stayed for 30 days after its entry, unless the court orders otherwise.” Defendant Lynn Brading asks the Court to extend this stay until pending post-trial issues which could impact the amount of the judgment against her are resolved.

The Court has “considerable discretion” to fashion relief under Fed. R. Civ. P. 62. *In re Decker Oaks Dev. II, Ltd.*, 2008 Bankr. LEXIS 4349 at *14-15 (Bankr. S.D. Tex. July 21, 2008) (citing *Poplar Grove, Etc. v. Bache Halsey Stuart, Inc.*, 600 F.2d 1189, 1191 (5th Cir. 1979)).

Lynn Brading, the individual defendant in this case against whom the Judgment for \$287,000 was entered on June 14, 2019, has filed a Notice of Appeal with respect to the Court’s December 28, 2018 Order (Dkt. No. 133) granting Plaintiff Six Dimension, Inc.’s Motion for Summary Judgment as to Defendant Brading’s breach of contract, and the Judgment (Dkt. No. 225) entered in favor of the Plaintiff and against Defendant Brading on that claim. Defendant Brading intends to ask the Court to approve a supersedeas bond that would stay execution of the judgment against her pursuant to Fed. R. Civ. P. 62(b).

However, all of the parties to the lawsuit have raised post-trial issues that have the potential to impact the amount of the supersedeas bond that may be required of Brading to stay execution of the judgment against her pending appeal. More specifically, all three parties to the lawsuit have submitted opposed Bills of Costs (Dkt. Nos. 229, 232, 235), and Plaintiff has filed a Motion for Attorneys' Fees, Reasonable Costs, and Pre-Judgment Interest (Dkt. No. 231), and a Motion for New Trial (Dkt. No. 239).

Because the amount of the bond cannot be calculated, if the requested stay is not granted, Defendant Brading could be forced to secure multiple supersedeas bonds, at potentially greater expense than obtaining a single bond.

There is little or no likelihood of harm to Plaintiff. The post-trial issues which render calculation of the bond amount impossible will be resolved within a relatively short period of time, and Defendant Brading intends to request and post an appropriate bond once the amount of the bond can be determined.

III. CONCLUSION

For all of the reasons set forth in this Motion, Defendant Lynn Brading requests that the Court extend the automatic stay of execution of judgment provided by Rule 62 until the Court rules on the parties' pending post-trial filings.

DATED this 15th day of July, 2019.

Respectfully Submitted,
/s/ Patrick S. Richter
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**ATTORNEYS FOR DEFENDANT
LYNN BRADING**

CERTIFICATE OF CONFERENCE

I hereby certify that I have attempted to confer with counsel for Plaintiff on July 15, 2019 concerning the relief requested by this Motion. Counsel for Plaintiff did not respond, so it is assumed that they are opposed to the motion.

/s/ Patrick S. Richter
Patrick S. Richter

CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2019, I filed the foregoing using the electronic filing system in accordance with this Court's e-service protocols, which constitutes service upon counsel of record.

/s/ Patrick S. Richter
Patrick S. Richter